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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 STEVEN C. CEARLEY,

9 Petitioner,

10 v.

11 RON HAYES,

12 Respondent.

CASE NO. C17-5416 BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

13 This matter comes before the Court on the Report and Recommendation (“R&R”)
14 of the Honorable David W. Christel, United States Magistrate Judge (Dkt. 12), and
15 Petitioner Steven Cearley’s (“Cearley”) objections to the R&R (Dkt. 14).

16 On November 1, 2017, Judge Christel issued the R&R recommending that the
17 Court dismiss Cearly’s petition as time-barred. Dkt. 12. On November 15, 2017,
18 Cearley filed objections. Dkt. 14.


19 The district judge must determine de novo any part of the magistrate judge’s
20 disposition that has been properly objected to. The district judge may accept, reject, or
21 modify the recommended disposition; receive further evidence; or return the matter to the
22 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

1 In this case, Cearley contends that his petition is timely because his conviction did
2 not become final until the state court of appeals issued its mandate. Dkt. 14 at 2–3.
3 Cearley is incorrect. “[F]or a state prisoner who does not seek review in a State’s highest
4 court, the judgment becomes ‘final’ on the date that the time for seeking such review
5 expires.” *Gonzalez v. Thaler*, 565 U.S. 134, 150 (2012). Cearley did not seek review in
6 the Washington Supreme Court. Thus, his conviction became final when the time for
7 seeking review in that court passed and not when the court of appeals issued its mandate.

8 Therefore, the Court having considered the R&R, Petitioner’s objections, and the
9 remaining record, does hereby find and order as follows:

- 10 (1) The R&R is **ADOPTED**;
- 11 (2) Cearley’s petition is **DISMISSED** as time-barred;
- 12 (3) The Court **DENIES** a Certificate of Appealability; and
- 13 (4) The Clerk shall enter **JUDGMENT** in favor of Respondent and close this
14 case.

15 Dated this 18th day of December, 2017.

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18 BENJAMIN H. SETTLE
19 United States District Judge
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